

**TITLE 46. WATER, AIR, ENERGY, AND ENVIRONMENTAL
CONSERVATION**

CHAPTER 40. THE ALASKA COASTAL MANAGEMENT PROGRAM

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**ARTICLE 1. DEVELOPMENT OF
ALASKA COASTAL MANAGEMENT PROGRAM**

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Sec. 46.40.010. DEVELOPMENT OF ALASKA COASTAL MANAGEMENT PROGRAM. (a) The Alaska Coastal Policy Council established in AS 44.19.155 shall approve, in accordance with this chapter, the Alaska coastal management program.

(b) The council may approve the Alaska coastal management program for a portion or portions of the coastal area before approving the complete program under (a) of this section. Portions of the program approved under this subsection shall be incorporated into the Alaska coastal management program.

(c) The Alaska coastal management program shall be reviewed by the council and, when appropriate, revised to

(1) add newly approved district coastal management programs, or revisions and amendments to the Alaska coastal management program;

(2) integrate newly approved district coastal management programs, or revisions and amendments of district coastal management programs, with existing approved programs and with plans developed by state agencies;

(3) add new or revised state statutes, policies, regulations, or other appropriate material;

(4) review the effectiveness of implementation of district coastal management programs; and

(5) consider new information acquired by the state and coastal resource districts.

(d) All reviews and revisions shall be in accordance with the guidelines and standards adopted by the council under AS 46.40.040. (§ 4 ch 84 SLA 1977)

Sec. 46.40.020. OBJECTIVES. The Alaska coastal management program shall be consistent with the following objectives:

(1) the use, management, restoration, and enhancement of the overall quality of the coastal environment;

(2) the development of industrial or commercial enterprises that are consistent with the social, cultural, historic, economic, and environmental interests of the people of the state;

(3) the orderly, balanced utilization and protection of the resources of the coastal area consistent with sound conservation and sustained yield principles;

(4) the management of coastal land and water uses in such a manner that, generally, those uses which are economically or physically dependent on a coastal location are given higher priority when compared to uses which do not economically or physically require a coastal location;

(5) the protection and management of significant historic, cultural, natural, and aesthetic values and natural systems or processes within the coastal area;

(6) the prevention of damage to or degradation of land and water reserved for their natural values as a result of inconsistent land or water usages adjacent to that land;

(7) the recognition of the need for a continuing supply of energy to meet the requirements of the state and the contribution of a share of the state's resources to meet national energy needs; and

(8) the full and fair evaluation of all demands on the land and water in the coastal area. (§ 4 ch 84 SLA 1977)

Sec. 46.40.030. DEVELOPMENT OF DISTRICT COASTAL MANAGEMENT PROGRAMS. (a) Coastal resource districts shall develop and adopt district coastal management programs in accordance with the provisions of this chapter. The program

adopted by a coastal resource district shall be based upon a municipality's existing comprehensive plan or a new comprehensive resource use plan or comprehensive statement of needs, policies, objectives, and standards governing the use of resources within the coastal area of the district. The program must be consistent with the guidelines and standards adopted by the council under AS 46.40.040 and must include

(1) a delineation within the district of the boundaries of the coastal area subject to the district coastal management program;

(2) a statement, list, or definition of the land and water uses and activities subject to the district coastal management program;

(3) a statement of policies to be applied to the land and water uses subject to the district coastal management program;

(4) regulations, as appropriate, to be applied to the land and water uses subject to the district coastal management program;

(5) a description of the uses and activities which will be considered proper and the uses and activities which will be considered improper with respect to the land and water within the coastal area;

(6) a summary or statement of the policies which will be applied and the procedures which will be used to determine whether specific proposals for land or water uses or activities shall be allowed; and

(7) a designation of, and the policies which will be applied to the use of, areas within the coastal resource district which merit special attention. (§ 4 ch 84 SLA 1977)

(b) In developing statements of policies and regulations under (a) of this section, a coastal resource district may not incorporate by reference statutes and administrative regs adopted by state agencies.

Sec. 46.40.040. DUTIES OF THE ALASKA COASTAL POLICY COUNCIL.

Through the public hearing process and the recording of the minutes of the hearings, the Alaska Coastal Policy Council shall

(1) by regulation, adopt under the provisions of AS 44.62 (Administrative Procedure Act) for the use of and application by coastal resource districts and state agencies for carrying out their responsibilities under this chapter, guidelines and standards for

(A) identifying the boundaries of the coastal area subject to the district coastal management program;

(B) determining the land and water uses and activities subject to the district coastal management program;

(C) developing policies applicable to the land and water uses subject to the district coastal management program;

(D) developing regulations applicable to the land and water uses subject to the district coastal management program;

(E) developing policies and procedures to determine whether specific proposals for the land and water uses or activities subject to the district coastal management program shall be allowed;

(F) designating and developing policies for the use of areas of the coast which merit special attention; and

(G) measuring the progress of a coastal resource district in meeting its responsibilities under this chapter;

(2) develop and maintain a program of technical and financial assistance to aid coastal resource districts in the development and implementation of district coastal management programs;

(3) undertake review and approval of district coastal management programs in accordance with this chapter;

(4) initiate a process for identifying and managing uses of state concern within specific areas of the coast;

(5) develop procedures or guidelines for consultation and coordination with federal agencies managing land or conducting activities potentially affecting the coastal area of the state;

(6) by regulation, establish a consistency review and determination or certification process that conforms to the requirements of AS 46.40.096. (§ 4 ch 84 SLA 1977; am § 1 ch 129 SLA 1978; am § 1 34 SLA 1994)

Sec. 46.40.050. ACTION AND SUBMISSION BY COASTAL RESOURCE

DISTRICTS. Each coastal resource district shall make substantial progress, in the opinion of the council, toward completion of an approvable district coastal management program and shall complete and submit to the council for approval its program within 30 months of June 4, 1977 or within 30 months of certification of the results of the district's organization, whichever is later. If, in the opinion of the council, after receipt of a written request for extension from the district which includes the reasons for the extension, an extension is considered proper, the council may grant an extension to a date which is not later than December 4, 1981, or to a date which is within 54 months of certification of the results of the district's organization, whichever is later. (§ 4 ch 84 SLA 1977; am § 1 ch 66 SLA 1979)

Sec. 46.40.060. REVIEW AND APPROVAL BY COUNCIL. (a) If, upon submission of a district coastal management program for approval, the council finds that the program is substantially consistent with the provisions of this chapter and the guidelines and standards adopted by the council and does not arbitrarily or unreasonably restrict or exclude uses of state concern, the council may grant summary approval of the district coastal management program, or may approve portions of the district program which are consistent.

(b) If the council finds that a district coastal management program is not approvable or is approvable only in part under (a) of this section, it shall direct that deficiencies in the program submitted by the coastal resource district be mediated. In mediating the deficiencies, the council may call for one or more public hearings in the district. The

council shall meet with officials of the coastal resource district in order to resolve differences.

(c) If, after mediation, the differences have not been resolved to the mutual agreement of the coastal resource district and the council, the council shall call for a public hearing and shall resolve the differences in accordance with AS 44.62 (Administrative Procedure Act). After a public hearing held under this subsection, the council shall enter findings and, by order, may require

(1) that the district coastal management program be amended to make it consistent with the provisions of this chapter or the guidelines and standards adopted by the council;

(2) that the district coastal management program be revised to accommodate a use of state concern; or

(3) any other action be taken by the coastal resource district as appropriate.

(d) The superior courts of the state have jurisdiction to enforce orders of the council entered under (c) of this section. (§ 4 ch 84 SLA 1977)

Sec. 46.40.070. STANDARDS FOR COUNCIL REVIEW AND APPROVAL. (a) The council shall approve a district coastal management program submitted for review and approval if the program is consistent with the provisions of this chapter and the guidelines and standards adopted by the council.

(b) Notwithstanding an inconsistency of a district coastal management program submitted for review and approval with the guidelines and standards adopted, the council shall approve the program if it finds that

(1) strict adherence to the guidelines and standards adopted would result in a violation of another state law or policy;

(2) strict adherence to the guidelines and standards adopted would cause or probably cause substantial irreparable harm to another interest or value in the coastal area of the district; or

(3) the inconsistency is of a technical nature and no substantial harm would result to the policies and objectives of this chapter or the Alaska coastal management program.

(c) In determining whether a restriction or exclusion of a use of state concern is arbitrary or unreasonable, the council shall approve the restriction or exclusion if it finds that

(1) the coastal resource district has consulted with and considered the views of appropriate federal, state, or regional agencies;

(2) the district has based its restriction or exclusion on the availability of reasonable alternative sites; and

(3) the district has based its restriction or exclusion on an analysis showing that the proposed use is incompatible with the proposed site.

(d) A decision by the council under this section shall be given within 90 days. (§ 4 ch 84 SLA 1977)

Sec. 46.40.080. EFFECTIVE DATE OF ALASKA COASTAL MANAGEMENT

PROGRAM. The Alaska coastal management program adopted by the council, and any additions, revisions, or amendments of the program, take effect upon adoption of a concurrent resolution by a majority of the members of each house of the legislature or by a vote of the majority of the members of each house at the time the houses are convened in joint session to confirm executive appointments submitted by the governor. (§ 4 ch 84 SLA 1977)

Sec. 46.40.090. IMPLEMENTATION OF DISTRICT COASTAL MANAGEMENT

PROGRAMS. (a) A district coastal management program approved by the council and the legislature for a coastal resource district which does not have and exercise zoning or other controls on the use of resources within the coastal area shall be implemented by appropriate state agencies. Implementation shall be in accordance with the comprehensive use plan or the statement of needs, policies, objectives, and standards adopted by the district.

(b) A coastal resource district which has and exercises zoning or other controls on the use of resources within the coastal area shall implement its district coastal management program. Implementation shall be in accordance with the comprehensive use plan or the statement of needs, policies, objectives, and standards adopted by the district. (§ 4 ch 84 SLA 1977)

Sec. 46.40.094. CONSISTENCY DETERMINATIONS FOR PHASED USES AND

ACTIVITIES. (a) The provisions of this section apply to a use or activity for which a consistency determination is required if

(1) at the time the proposed use or activity is initiated, there is insufficient information to evaluate and render a consistency determination for the entirety of the proposed use or activity;

(2) the proposed use or activity is capable of proceeding in discrete phases based upon developing information obtained in the course of a phase; and

(3) each subsequent phase of the proposed use or activity is subject to discretion to implement alternative decisions based upon the developing information.

(b) When a use or activity is authorized or developed in discrete phases and each phase will require decisions relating to a permit, lease, or authorization for that particular phase, the agency responsible for the consistency determination for the particular phase

(1) may, in its discretion, limit the consistency review to that particular phase if, but only if,

(A) the agency or another state agency must carry out a subsequent consistency review and make a consistency determination before a later phase may proceed; and

(B) the agency responsible conditions its consistency determination for that phase on a requirement that a use or activity authorized in a subsequent phase be consistent with the Alaska coastal management program; and

(2) shall, when the consistency review is limited under (1) of this subsection, conduct the consistency review for the particular phase and make the consistency determination based on

(A) applicable statutes and regulations;

(B) the facts pertaining to a use or activity for which the consistency determination is sought that are

(i) known to the state agency responsible or made a part of the record during the consistency review; and

(ii) material to the consistency determination; and

(C) the reasonably foreseeable, significant effects of the use or activity for which the consistency determination is sought;

(3) Shall, when the consistency review is limited under (1) of this subsection, describe in the consistency determination the reasons for its decision to make the consistency determination for the use or activity in phases.

(c) Notwithstanding any other provision of this section, for a natural gas pipeline project from the Alaska North Slope following a route that parallels the Trans Alaska Pipeline System and the Alaska Highway to the Canadian border or a route that runs south to Alaska tidewater, any agency responsible for the consistency determination with respect to proposed uses or activities involved in the project may, in its discretion, conduct the review and make the consistency determination in separate phases in a manner that promotes review of proposed uses and activities based upon the project's design, construction sequence, and schedule.

(d) In this section, "agency responsible for the consistency determination" means the office of management and budget, for a consistency determination required to be made under AS 44.19.145(a)(11); and the commissioner of the resource agency that coordinates a consistency review for a proposed use or activity, or for a proposed phase of a use or activity, when required by this chapter for which a permit, lease, or authorization is required to be approved or issued only by that resource agency.

Sec. 46.40.096. CONSISTENCY REVIEWS AND DETERMINATIONS. (a) The council shall, by regulation, establish a consistency review and determination process that conforms to the requirements of this section.

(b) If a consistency review is not subject to AS 44.19.145 (a)(11) because the project for which a consistency review is made requires a permit, lease, or authorization from only one state agency, that state agency shall coordinate the consistency review of the project. The state agency shall coordinate the consistency review according to the requirements of the regulations adopted by the council under this section.

(c) The regulations adopted by the council under this section must include provisions for public notice and provide the opportunity for public comment. The regulations adopted under this subsection may make distinctions relating to notice based upon differences in project type, anticipated effect of the project on coastal resources and uses, other state or federal notice requirements, and time constraints. However, a notice given

under this subsection must contain sufficient information, expressed in commonly understood terms, to inform the public of the nature of the proposed project for which a consistency determination is sought, and must explain how the public may comment on the proposed project.

(d) In preparing a consistency review and determination for a proposed project, the reviewing entity shall

(1) request consistency review comments for the proposed project from state resource agencies, affected coastal resource districts, and other interested parties as determined by regulation adopted by the council;

(2) prepare proposed consistency determinations;

(3) coordinate subsequent reviews of proposed consistency determinations prepared under (2) of this subsection; a subsequent review of a proposed consistency determination under this paragraph

(A) is limited to a review by the state resource agencies; and

(B) may occur only if requested by

(i) the project applicant;

(ii) a state resource agency; or

(iii) an affected coastal resource district;

(4) render the final consistency determination and certification.

(e) [Repealed, Sec. 9 ch 29 SLA 2002].

(f) [Repealed, Sec. 9 ch 29 SLA 2002].

(g) The reviewing entity may exclude from the consistency review and determination process for a project

(1) an activity that is authorized under a general or nationwide permit that has previously been determined to be consistent with the applicable coastal management programs;

(2) the issuance of an authorization or permit issued by the Alaska Oil and Gas Conservation Commission.

(h) In this section,

(1) "affected coastal resource district" means a coastal resource district in which a project is proposed to be located or which may experience a direct and significant impact from a proposed project;

(2) "reviewing entity" means the

(A) office, for a consistency review subject to AS 44.19.145 (a)(11);

(B) state agency identified in (b) of this section, for a consistency review not subject to AS 44.19.145 (a)(11).

Sec. 46.40.100. COMPLIANCE AND ENFORCEMENT. (a) Municipalities and state resource agencies shall administer land and water use regulations or controls in conformity with district coastal management programs approved by the council and in effect.

(b) A party that is authorized under (g) of this section may file a petition showing that a district coastal management program is not being implemented. A petition filed under this subsection may not seek review of a proposed or final consistency determination regarding a specific project. On receipt of a petition, the council, after giving public notice in the manner required by (f) of this section, shall convene a hearing to consider the matter. A hearing called under this subsection shall be held in accordance with regulations adopted by the council. After hearing, the council may order that the coastal resource district or a state resource agency take any action with respect to future implementation of the district coastal management program that the council considers necessary, except that the council may not order that the coastal resource district or a state agency take any action with respect to a proposed or final consistency determination that has been issued.

(c) In determining whether an approved district coastal management program is being implemented by a coastal resource district that exercises zoning authority or controls on the use of resources within the coastal area or by a state resource agency, the council shall find in favor of the district or the state resource agency, unless the council finds a pattern of nonimplementation.

(d) [Repealed, Sec. 9 ch 29 SLA 2002].

(e) The superior courts of the state have jurisdiction to enforce lawful orders of the council.

(f) Upon receipt of a petition under (b) of this section, the council shall give notice of the hearing at least 10 days before the scheduled date of the hearing. The notice must

(1) contain sufficient information in commonly understood terms to inform the public of the nature of the petition; and

(2) indicate the manner in which the public may comment on the petition.

(g) The opportunity to petition is limited to

(1) a coastal resource district;

(2) a citizen of the coastal resource district; or

(3) a state resource agency.

(h) If the council finds a pattern of nonimplementation under (c) of this section, the council may order a coastal resource district or a state resource agency to take action with respect to future implementation of the district coastal management program that the council considers necessary to implement the district coastal management program. The council's determination under (c) of this section and any order issued under this subsection shall be considered a final administrative order for purposes of judicial review under AS 44.62.560.

ARTICLE 2. COASTAL MANAGEMENT PROGRAMS IN THE UNORGANIZED BOROUGH

Section:

- 110. Authority in the unorganized borough**
- 120. Coastal resource service areas**
- 130. Organization of coastal resource service area**
- 140. Coastal resource service area boards**
- 150. Elections in coastal resource service areas**
- 160. Organization at the direction of the council**
- 170. Preparation of district coastal management program by the Department of Community and Economic Development**
- 180. Approval of programs in coastal resource service areas**

Sec. 46.40.110. AUTHORITY IN THE UNORGANIZED BOROUGH. Under AS 29.03.020 and AS 46.40.110 - 46.40.180, the legislature authorizes organization of coastal resource service areas in the unorganized borough and grants authority to the service areas which may be organized to perform the duties required under this chapter. (§ 4 ch 84 SLA 1977)

Sec. 46.40.120. COASTAL RESOURCE SERVICE AREAS. (a) Except as otherwise provided in this section, each regional educational attendance area established under AS 14.08.031 containing a part of the coastal area may be organized as a coastal resource service area.

(b) The commissioner of community and economic development may, after public hearings held in the area affected, consolidate two or more regional educational attendance areas as a single coastal resource service area

(1) if a substantial portion of the coastal area contains land and water area owned by the federal government over which it exercises exclusive jurisdiction or land held in trust by the federal government for Alaska Natives over which the state would not exercise control as to use; or

(2) if, after giving due consideration to the standards applicable to incorporation of borough governments and the likelihood that a borough will be incorporated within the area, the commissioner determines that the functions to be performed under this chapter could be undertaken more efficiently through the combination of two or more regional educational attendance areas as a single coastal resource service area.

(c) A determination under (b) of this section shall be made before organization of the coastal resource service area.

(d) For purposes of coastal zone management only, the commissioner of community and economic development may, after public hearings held in the regional educational attendance area affected, divide an existing regional educational attendance area into no

more than three coastal resource service areas according to geographic, cultural, economic, environmental, or other features relevant to coastal management planning. However

(1) each coastal resource service area formed by dividing an existing regional educational attendance area must contain at least one first class city or home rule city;

(2) a city within a coastal resource service area formed by dividing an existing regional educational attendance area may not elect to exclude itself from the coastal resource service area; and

(3) a coastal resource service area formed before June 1, 1980, may not be divided for coastal management planning purposes. (§ 4 ch 84 SLA 1977; am § 2 ch 129 SLA 1978; am §§ 1, 2 ch 48 SLA 1980)

Sec. 46.40.130. ORGANIZATION OF COASTAL RESOURCE SERVICE AREA.

(a) Organization of a coastal resource service area may be initiated

(1) by submission to the council of a petition signed by a number of registered voters equal to 15 percent of the number of votes cast within the coastal resource service area at the last state general election;

(2) by submission to the council of a resolution approved by the city council or traditional village council of not less than 25 percent of the number of cities and villages within the coastal service area; or

(3) at the direction of a majority of the members of the council in the manner set out in AS 46.40.160.

(b) Acting at the request of the council, the lieutenant governor, not less than 60 nor more than 90 days after receipt of a proper petition under (a)(1) of this section, a proper resolution under (a)(2) of this section, or at the direction of the council under (a)(3) of this section, shall conduct an election on the question of organization of a coastal resource service area. (§ 4 ch 84 SLA 1977)

Sec. 46.40.140. COASTAL RESOURCE SERVICE AREA BOARDS. (a) Each coastal resource service area, upon organization, shall have an elected board representing the population of the service area. The board shall have the powers and duties and perform the functions prescribed for or required of coastal resource districts.

(b) A coastal resource service area board shall contain seven members. Board members shall be elected at large by the qualified voters of the coastal resource service area.

(c) The commissioner of community and economic development, after consultation with residents of a coastal resource service area, may divide a service area into sections only for the purpose of nominating and electing board members. Division of a service area into sections for the purpose of nomination and election shall be in accordance with the provisions of AS 14.08.051 (a). Division may be proposed in the petition submitted under AS 46.40.130 (a)(1), in the resolution submitted under AS 46.40.130 (a)(2), at the

direction of the council under AS 46.40.130 (a)(3), or may be proposed at any time by the members of the coastal resource service area board. If proposed by the board, the division of the service area into sections is subject to approval of a majority of the qualified voters voting on the question in the coastal resource service area at the next regular election or at a special election called for that purpose and, if approved, takes effect at the next regular election of members of the coastal resource service area board.

(d) The term of office of a member of a coastal resource service area board is three years, except that the terms of the members of the first board elected after organization of a coastal resource service area shall be determined by lot, with two members serving one-year terms, two members serving two-year terms, and three members serving three-year terms. Members serve until their successors are elected and have qualified. This section does not prohibit the reelection of a board member.

(e) The lieutenant governor shall provide for the election of the members of coastal resource service area boards. The first election of board members shall occur at the same time as the organization election under AS 46.40.130 (b).

(f) Except for the first election of members of coastal resource service area boards, elections shall be held annually on the date of election of members of regional educational attendance area boards under AS 14.08.071 (b). For an election under this subsection or under (e) of this section, a newly elected board member takes office at the first coastal resource service area board meeting after certification of the election. If no candidate files for election to a seat on the coastal resource service area board, the seat is considered vacant at the time a newly elected member would have taken office.

(g) A seat on a coastal resource service area board shall be declared vacant by the board if the criteria under AS 14.08.045 (a) apply to the person elected. A vacancy on a coastal resource service area board shall be filled by appointment as provided in AS 14.12.070 for vacancies in the membership of regional educational attendance area boards.

(h) Members of coastal resource service area boards are subject to recall on the same grounds and in the same manner as provided for recall of municipal officials in AS 29.26.240 - 29.26.350. The lieutenant governor functions in place of the assembly or council and municipal clerk for receipt and review of recall petitions and the conduct of recall elections. (§ 4 ch 84 SLA 1977; am § 85 ch 74 SLA 1985; am §§ 5 – 7 ch 129 SLA 1990)

Sec. 46.40.150. ELECTIONS IN COASTAL RESOURCE SERVICE AREAS.

Organization elections under AS 46.40.130 and other elections, including recall elections conducted under AS 46.40.140 , shall be administered by the lieutenant governor in the general manner provided in AS 15 (Election Code). In addition, the lieutenant governor may adopt regulations necessary to the conduct of coastal resource service area board elections. The state shall pay all election costs. (§ 4 ch 84 SLA 1977)

Sec. 46.40.160. ORGANIZATION AT THE DIRECTION OF THE COUNCIL.

(a) Whenever it appears that major economic development activity will occur in a coastal resource service area or in water adjacent to a coastal resource service area which has not been organized, the council may direct the lieutenant governor to submit to the voters of the service area the question of organization. The council may require an election on the question only after holding at least one public hearing within the area proposed for organization.

(b) In this section, "major economic development activity" includes a call for nomination by the Secretary of the United States Department of the Interior for leasing of tracts within petroleum basins in water of the outer continental shelf adjacent to the coastal resource service area or any other significant industrial or commercial activity which, in the opinion of the council, would commit the resources of the coastal area to a use of direct and significant impact upon the coastal water of the state. (§ 4 ch 84 SLA 1977)

Sec. 46.40.170. PREPARATION OF DISTRICT COASTAL MANAGEMENT PROGRAM BY THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT.

(a) If residents of a coastal resource service area reject organization of the service area at an election called for the purpose and the council finds, after public hearing, that major economic development activity has occurred or will occur within the service area, the council may direct the Department of Community and Economic Development to prepare and recommend for consideration by the council and for submission to the legislature a district coastal management program for the service area.

(b) At the request of the council, the Department of Community and Economic Development shall complete the district coastal management program in accordance with this chapter and the guidelines and standards adopted by the council for a coastal resource service area that has been organized but that has failed to make substantial progress in the preparation of an approvable district coastal management program within 18 months of certification of the results of an organization election or that has not submitted for approval to the council a program within 30 months of certification of the results of its organization election. Preparation of the program shall be conducted in consultation with the coastal resource service area and shall, to the maximum extent consistent with this chapter, reflect the expressed concerns of the residents of the service area.

(c) Before requesting the department to complete the district coastal management program under (b) of this section, the council shall meet with the members of the coastal resource service area board to determine whether the board is able to complete a district coastal management program within the time limitations established in this section. (§ 4 ch 84 SLA 1977)

Sec. 46.40.180. APPROVAL OF PROGRAMS IN COASTAL RESOURCE SERVICE AREAS.

(a) Before adoption by a coastal resource service area board, or by the Department of Community and Economic Development under AS 46.40.170, a

district coastal management program shall be submitted for review to each city or village within the coastal resource service area. The council of a city or traditional village council shall consider the program submitted for review. Within 60 days of submission, the council of a city or traditional village council shall either approve the program or enter objections to all or any portion of the program.

(b) If a city or village within a coastal resource service area fails to approve a portion of the district coastal management program prepared and submitted for approval under (a) of this section, the governing body shall advise the coastal resource service area board or the department, as applicable, of its objections to the proposed program and suggest alternative elements or components for inclusion in the district coastal management program. New matter submitted by a city or village which is substantially consistent with the guidelines and standards adopted by the council shall be accepted and the district coastal management program modified accordingly. If a city or village fails to provide objections and suggested alternatives within the time limits established in this section, the coastal resource service area board or the department, as applicable, may adopt the district coastal management program as initially offered.

(c) Objection by a city council under (b) of this section is limited to objection to elements of the program affecting resources or the use of resources within the corporate limits of the city. Objection by a traditional village council under (b) of this section is limited to objection to elements of the program affecting resources or the use of resources within the village or within two miles of the village.

(d) For purposes of this section, "village" means an unincorporated community where at least 25 persons reside as a social unit as determined by the Department of Community and Economic Development. (§ 4 ch 84 SLA 1977)

ARTICLE 3. GENERAL PROVISIONS

Section:

190. Cooperative administration

200. State agencies

210. Definitions

Sec. 46.40.190. COOPERATIVE ADMINISTRATION. (a) A city within the coastal area that is not part of a coastal resource service area shall be included for purposes of this chapter within an adjacent coastal resource service area unless its governing body, by resolution adopted by a majority of its membership, chooses to exclude the city from an adjacent coastal resource service area and a copy of the resolution is filed with the commissioner of community and economic development.

(b) This chapter does not restrict or prohibit cooperative or joint administration of functions between a municipality and a coastal resource service area organized under the provisions of this chapter upon initiation of a mutual agreement for the purpose. A city that elects to be excluded from an adjacent coastal resource service area under (a) of this section shall enter into a mutual agreement for cooperative or joint administration of functions with the coastal resource service area board from the adjacent coastal resource service area. (§ 4 ch 84 SLA 1977; am § 3 ch 48 SLA 1980; am § 72 ch 58 SLA 1999)

Sec. 46.40.200. STATE AGENCIES. Upon the adoption of the Alaska coastal management program, state departments, boards, and commissions shall review their statutory authority, administrative regulations, and applicable procedures pertaining to land and water uses within the coastal area for the purpose of determining whether there are any deficiencies or inconsistencies which prohibit compliance with the program adopted. State agencies shall, within six months of the effective date of the Alaska coastal management program, take whatever action is necessary to facilitate full compliance with and implementation of the program, including preparation and submission of recommendations to the council for additional or amended legislation. (§ 4 ch 84 SLA 1977)

Sec. 46.40.210. DEFINITIONS. In this chapter, unless the context otherwise requires,

(1) **“area which merits special attention”** means a delineated geographic area within the coastal area which is sensitive to change or alteration and which, because of plans or commitments or because a claim on the resources within the area delineated would preclude subsequent use of the resources to a conflicting or incompatible use, warrants special management attention, or which, because of its value to the general public, should be identified for current or future planning, protection, or acquisition; these areas, subject to council definition of criteria for their identification, include:

(A) areas of unique, scarce, fragile or vulnerable natural habitat, cultural value, historical significance, or scenic importance;

(B) areas of high natural productivity or essential habitat for living resources;

(C) areas of substantial recreational value or opportunity;

(D) areas where development of facilities is dependent upon the utilization of, or access to, coastal water;

(E) areas of unique geologic or topographic significance which are susceptible to industrial or commercial development;

(F) areas of significant hazard due to storms, slides, floods, erosion, or settlement; and

(G) areas needed to protect, maintain, or replenish coastal land or resources, including coastal flood plains, aquifer recharge areas, beaches, and offshore sand deposits;

(2) **“coastal resource district”** means each of the following that contains a portion of the coastal area of the state:

(A) unified municipalities;

(B) organized boroughs of any class that exercise planning and zoning authority;

(C) home rule and first class cities of the unorganized borough or within boroughs that do not exercise planning and zoning authority;

(D) second class cities of the unorganized borough, or within boroughs that do not exercise planning and zoning authority, that have established a planning commission, and that, in the opinion of the commissioner of community and economic development, have the capability of preparing and implementing a comprehensive district coastal management program under AS 46.40.030 ;

(E) coastal resource service areas established and organized under AS 29.03.020 and AS 46.40.110 - 46.40.180;

(3) **“consistency review”** means the evaluation of a proposed project against the standards adopted by the council under AS 46.40.040 and a district coastal management program approved by the council under AS 46.40.060;

(4) **“council”** means the Alaska Coastal Policy Council;

(5) **“department”** means the Department of Community and Economic Development;

(6) **“office”** means the office of management and budget established in the Office of the Governor;

(7) **“use of direct and significant impact”** means a use, or an activity associated with the use, which proximately contributes to a material change or alteration in the natural or social characteristics of a part of the state's coastal area and in which

(A) the use, or activity associated with it, would have a net adverse effect on the quality of the resources of the coastal area;

(B) the use, or activity associated with it, would limit the range of alternative uses of the resources of the coastal area; or

(C) the use would, of itself, constitute a tolerable change or alteration of the resources within the coastal area but which, cumulatively, would have an adverse effect;

(8) **“uses of state concern”** means those land and water uses which would significantly affect the long-term public interest; these uses, subject to council definition of their extent, include

(A) uses of national interest, including the use of resources for the siting of ports and major facilities which contribute to meeting national energy needs, construction and maintenance of navigational facilities and systems, resource development of federal land, and national defense and related security facilities that are dependent upon coastal locations;

(B) uses of more than local concern, including those land and water uses which confer significant environmental, social, cultural, or economic benefits or burdens beyond a single coastal resource district;

(C) the siting of major energy facilities, activities pursuant to a state oil and gas lease, or large-scale industrial or commercial development activities which are dependent on a coastal location and which, because of their magnitude or the magnitude of their effect on the economy of the state or the surrounding area, are reasonably likely to present issues of more than local significance;

(D) facilities serving statewide or interregional transportation and communication needs; and

(E) uses in areas established as state parks or recreational areas under AS 41.21 or as state game refuges, game sanctuaries, or critical habitat areas under AS 16.20. (§ 4 ch 84 SLA 1977; am § 3 ch 129 ALA 1978; am § 86 ch 74 SLA 1985; am § 7 ch 34 SLA 1994; am § 73 ch 58 SLA 1999)

(9) **“resource agency”** has the meaning given in AS 44.19.152.